IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.545 OF 2004
IN
NOTICE OF MOTION NO.3091 OF 2002
IN
SUIT NO.90 OF 2000
IN
PETITION NO.317 OF 1999

Mr.Mirzban Darabshaw Surti .. Appellant.
V/s.
Mr.Cedric Vaz & Another .. Respondents.

Mr.Shailesh Shah i/b. M. Hiralal & Co. for the appellant.

**CORAM : R.M. LODHA, &**
**J.P. DEVADHAR, JJ.**

**DATED : 3RD SEPTEMBER, 2004.**

**P.C. :**

Mr.Shailesh Shah, the learned counsel for the appellant prays for withdrawal of the appeal as well as the notice of motion which was taken out by the petitioner before the learned testamentary Judge out of which the present appeal arises. The learned counsel submits that all contentions of the parties may be kept open to be agitated in the trial.

2. The prayer made by the learned counsel for the appellant is fair and reasonable.

3. The notice of motion No.3091 of 2002 in

Petition No.317 of 1999 is allowed to be withdrawn. As a result thereof, the impugned order dated August 5, 2004 is rendered infructuous so also the present appeal.

**(R.M. LODHA, J.)**

**(J.P. DEVADHAR, J.)**